

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICKOLAS WILLIAM POVSHA,

Defendant.

CR 18–47–M–DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on January 29, 2019. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Nickolas William Povsha’s guilty plea after Povsha appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of possession with intent to

distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1) (Count IV) and one count of possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924© (Count VI) as set forth in the Indictment.

Defendant further agrees to the forfeiture allegation in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts I-III, V, and VII of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 36), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Nickolas William Povsha's motion to change plea (Doc. 26) is GRANTED and Nickolas William Povsha is adjudged guilty as charged in Counts IV and VI of the Indictment.

DATED this 19th day of February, 2019.



Dana L. Christensen, Chief District Judge
United States District Court